

ICANN | GNSO

Generic Names Supporting Organization

GNSO Council Strategic Planning Session 23-25 January 2019 Meeting Report

Status of This Document

This is the meeting report from the 2019 GNSO Council Strategic Planning Session. This was the GNSO Council's second dedicated strategic planning session and saw the Council: 1) document expectations and develop a work plan for the year ahead, 2) reaffirm its responsibilities as a consequence of the IANA stewardship transition, and 3) discuss the implementation plan for PDP 3.0, which is focused on incremental improvements to enhance the efficiency and effectiveness of the GNSO Policy Development Processes (PDP).

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Summary

A. Background

This is the outcome document from the 2019 GNSO Council Strategic Planning Session that was held in Los Angeles, United States from 23-25 January 2019. The meeting brought together almost the entire GNSO Council. It was funded through an Additional Budget Request (ABR) that was submitted by the GNSO Council in 2018. The objective of the session was to develop the Council's work plan for 2019 and beyond, factoring in the Council's existing workload as well as its responsibilities as a Decisional Participant in the Empowered Community following the IANA Stewardship transition. In advance of the meeting, the Council leadership team met extensively with ICANN staff to develop the agenda for the meeting, with preparatory materials circulated to the Council prior to the meeting for their close review.

The Session was co-facilitated by former GNSO Chair, James Bladel.

All the preparatory materials for this meeting can be found at this URL: <https://community.icann.org/x/PY82Bg>. Additionally, all relevant Council procedures (GNSO Operating Procedures, PDP Manual, GNSO WG Guidelines, etc.) can be found here: <https://gns0.icann.org/en/council/procedures>.

B. Focus

The meeting spanned three days, each of which had a specific focus and objective¹:

- **Day 1 - Roles & Remit of Council, Council Leadership and Liaisons**

The day opened with a welcome and introductions, led by former GNSO Council Chair James Bladel; this session served as an effective ice-breaker that allowed the Council to work in a congenial and collaborative manner. The Council was then briefed by Becky Burr, ICANN Board member on the "picket fence". This session focused on reviewing the relevant Bylaws and GNSO Operating Procedures to ensure a common understanding of, and appreciation for, the unique roles that the GNSO and the GNSO Council have with regards to gTLD policy development. The Council discussed the Empowered Community powers and how to better ensure that if the need arises, it is well understood how they could be engaged. The GNSO Council also discussed the role of Council leadership, which has evolved over time, partly in reaction to new responsibilities following the IANA Stewardship transition. As a result of that discussion, members agreed to explore the creation of emergency consultation mechanisms that propose to allow the GNSO Chair and/or Council Vice-Chairs to consult with the GNSO Council and/or Stakeholder Group / Constituencies on issues that require an urgent response or decision. In addition to Becky, two other ICANN Board members,

¹ For a detailed overview, please see subsequent sections of this report.

Matthew Shears as the Non-Contracted Party House board member and Avri Doria as a former GNSO Chair, attended the SPS throughout as their schedules allowed.

- **Day 2 - PDP 3.0**

The overarching goal of the second day of the meeting was to better understand three specific improvements identified in PDP 3.0, namely, improvement #2 - Alternatives to the open WG model, improvement #5 - Active role for and clear description of Council liaison to PDP WGs, and improvement #13 - Review of Working Group Leadership. The Council began the sessions with an overview of the background on PDP 3.0 more generally followed by reviewing the objectives, descriptions, and possible implementation steps for the three specific improvements. After a general brainstorming session with all Councilors in attendance, the Council divided into three separate breakout groups to discuss each of the improvements in detail. After the breakout groups completed their sessions, the Council reconvened and discussed outcomes and findings. The Council agreed that implementation of PDP 3.0 will be a priority for the Council in 2019.

Councilors also discussed the role of GNSO Council liaisons to Policy Development Process (PDP) Working Groups, Implementation Review Teams (IRTs), Cross-Community Working Groups as well as other Supporting Organizations and Advisory Committees. It was agreed that, in addition to the existing language in the GNSO Operating Procedures and the description of the role, there is a need to be more specific and provide guidance about each of the responsibilities of liaisons (e.g., when, what, and how the liaison should engage).

- **Day 3 - 2019 Strategic Planning, Workload Management, and Objectives.**

On the third day, the Council reviewed the workload for the year ahead using the 2019 Project Timing Planning tool (see Annex B) and confirmed expected milestones. The Council explored challenges encountered in a number of PDPs and concerns were shared in relation to the challenges in achieving consensus with larger Working Groups, wider community participation, and more adversarial interactions between members. The Council also discussed how it can better serve as the manager of PDPs, including from a project management perspective. Understanding the costs (resources and capital) associated with PDPs is seen as an essential component in understanding the capacity of the community and accordingly, inform prioritization. Other critical discussions centered on how the GNSO Council, as manager of the policy development process, can and should act in addressing challenges if/when these occur. The Council discussed how it can encourage and foster a more collaborative and congenial environment, especially within PDPs. Additionally, the Council had a working lunch with a number of ICANN Board Members who were in Los Angeles at the time for a concurrent Board meeting.

C. Outcomes

This report provides further details on the discussions, agreements, and action items that were cultivated during the 2019 GNSO Council Strategic Planning Session.

The key outcomes of the meeting can be summarized as follows:

- Established a common understanding of Council's remit and responsibilities under ICANN governance documents;
- Clarified the various Council roles (leadership, liaisons and councilors);
- Enhanced understanding of the GNSO's history and present role within broader ICANN community;
- Enhanced understanding of the PDP 3.0 Implementation Plan and developed an approach to address the implementation of the numerous improvements. Established a small team of Councilors to lead the effort in managing the PDP 3.0 Implementation;
- Critically evaluated the Council's role as manager of the policy development process, including identification of existing inefficiencies and possible solutions, and;
- Reviewed and organized the Council's work flow for 2019, with PDP milestones.

Day One

A. Focus for day one

What is the GNSO Council and what is its function within ICANN?

The overarching goal of the first day of the meeting was to establish a common baseline of foundational knowledge about what the GNSO Council does, as well as the roles and responsibilities of Council leadership and the GNSO more broadly.

B. Role of the GNSO in the context of its history

Objective: Explain the “picket fence” and ICANN SO/AC structure in the context of history of the organization and how this impacts the GNSO’s role and function within ICANN.

High level notes:

See presentation provided by Becky Burr (<https://gns0.icann.org/sites/default/files/file/field-file-attach/picket-fence-overview-23jan19-en.pdf>).

- ICANN’s picket fence – what is it and where did it come from? Is it relevant in a post-transition world?
- In October 1998 agreement to transition from Verisign as sole registry and registrar for .com, .net and .org, followed by naming of competing registrars in April 1999.
- In November 1999, 5 competing registrars were named: AOL, CORE, France Telecom, Melbourne IT, register.com.
- First registry agreement and registrar accreditation agreement signed on 10 November 1999.
- ICANN needed the ability to uniformly enforce obligations, including the ability to add additional obligations without contractual negotiations. As part of that discussion, there was a need to identify the areas in which such additional contractual obligations could be added, tied to ICANN’s mission as well as a process by which such additional contractual obligations could be developed.
- However, that need for ICANN needed to be balanced against contracted parties having a reasonable measure of predictability, since contract modifications usually require agreement of both parties.
- Hence, the “picket fence” characterized this area that would delineate the topics for which ICANN could enforce additional contractual obligations that must have gone through an agreed upon process; anything outside of that area would need to be the subject of contract negotiations.
- The “picket fence” was first incorporated into the 1999 Registry Agreement (RA) between ICANN and Network Solutions. The “picket fence” was meant to ensure that Consensus Policies followed policy development process of the time and relate to one or more of the following:
 - issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, technical reliability and/or stable operation of the Internet or domain-name system;

- registry policies reasonably necessary to implement Consensus Policies relating to registrars, or
 - resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names), and
 - do not unreasonably restrain competition.
 - Some examples of topics within the “picket fence” identified in 1999 RA included, without limitation, principles for allocation of second-level domains, prohibitions against warehousing or speculation in domain names by registries or registrars, names reserved by the registry, transfer of domains held by a registrar losing accreditation, and dispute resolution policies.
 - The 1999 RA also included public access to data on second-level registrations.
 - Registry and registrar agreements cover the picket fence in slightly divergent ways. A number of examples were included in the agreements to provide an illustration of what topics would be considered within the picket fence.
 - The 2001 New Registrar Accreditation Agreement and RA were largely unchanged.
 - The New gTLD RA is also largely similar, though security and stability of the registry database for the TLD and cross-ownership restrictions were added as additional elements within the “picket fence”.
 - Specific elements identified in the new gTLD RA as NOT inside the “picket fence” included:
 - prescribe or limit the price of Registry Services;
 - modify the terms or conditions for the renewal or termination of the Registry Agreement;
 - modify the limitations on Temporary Policies (defined below) or Consensus Policies;
 - modify the provisions in the registry agreement regarding fees paid by Registry Operator to ICANN; or
 - modify ICANN’s obligations to ensure equitable treatment of registry operators and act in an open and transparent manner.
 - Picket fence incorporated into the post-transition Bylaws:
 - The mission of the Internet Corporation for Assigned Names and Numbers (“ICANN”) is to ensure the stable and secure operation of the Internet’s unique identifier systems ... (the “Mission”). Specifically, ICANN:
 - Coordinates the allocation and assignment of names in the root zone of the Domain Name System (“DNS”) and coordinates the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains (“gTLDs”). In this role, ICANN’s scope is to coordinate the development and implementation of policies:
 - For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS including, with respect to gTLD registrars and registries, policies in the areas described in Annex G-1 and Annex G-2; and
 - That are developed through a bottom-up consensus-based multistakeholder process and designed to ensure the stable and secure operation of the Internet’s unique names systems.
 - Annex G-2 (Registry specification):
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- The topics, issues, policies, procedures and principles referenced in Section 1.1(a)(i) with respect to gTLD registries are:
 - Issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet or DNS;
 - functional and performance specifications for the provision of registry services;
 - security and stability of the registry database for a TLD;
 - registry policies reasonably necessary to implement Consensus Policies relating to registry operations or registrars;
 - resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names); or
 - restrictions on cross-ownership of registry operators and registrars or registrar resellers and regulations and restrictions with respect to registry operations and the use of registry and registrar data in the event that a registry operator and a registrar or registrar reseller are affiliated.
- Registrar specification (G-1) only differs with regards to domain name use.
- As a result of the transition-related work, namely the CCWG-Accountability recommendations, the picket fence was incorporated into the Bylaws as part of ICANN's mission. The mission is now clarified to include the constraints that are in place with regards to ICANN's authority and ability to enforce contractual obligations on the topics as outlined in the Bylaws.
- It was necessary from a contracted parties' perspective to balance out ICANN's need to develop policies and impose them on contracted parties, where those policies are necessary for security and stability reasons. Incorporating the picket fence into ICANN's mission provides some measure of predictability and stability that businesses like contracted parties need. This sets up a unique situation whereby a contracting party is legally bound to terms which may not be consented to.
- The revisions to the agreements since 1999 have been relatively minor, or in other words, the "picket fence" has been largely stable.
- ICANN Board has committed to tying decisions and actions explicitly to relevant Bylaws provisions that empower the Board to act or not act for any decisions going forward. SO/ACs will be encouraged to adopt this approach going forward.
- The GNSO Council has begun doing something similar, tying any voting item to the GNSO's responsibilities and remit as defined in the Bylaws.
- Registry Services Evaluation Policy (RSEP) allows registries and registrars to innovate. However, that ability is derived from their respective contracts, not as a matter of policy development.
- ICANN's authority and legitimacy stems from commercial contracts, where both parties give up something and gain something.
- Concerns expressed about the tension between the "picket fence" and Public Interest Commitments? Existing PICs are grandfathered and incorporated into new gTLD RAs, or for legacy TLDs who adopt the new RA. For new PICs, it would seem that if they are consensus policies, must be within "picket fence".
- Not clear to what extent ICANN can enforce voluntary PICs that are not within the "picket fence".

- Trusted notifier - programs where “trusted” groups can make complaints to registries about content. Content is not within “picket fence” but should community have a say in this? Registries and registrars have an incentive to avoid bad elements related to content (e.g., opioids, human trafficking, etc.) and at the moment, these are voluntary actions by registrars and registries.

C. What is the GNSO Council and what does it do?

Objective:

- Establish a collaborative, safe environment in which all feel free to participate and contribute to the discussion;
- Develop a common understanding by all of the role and responsibilities of the GNSO Council as well as our shared role and responsibilities.
- Ensure all Councilors appreciate the precise responsibilities established by Bylaws Article 11, including the new post-transition responsibilities and related procedures related to the GNSO as a Decisional Participant in the Empowered Community.

High level notes:

From article 11 of the ICANN Bylaws:

- There shall be a policy-development body known as the Generic Names Supporting Organization (the "Generic Names Supporting Organization" or "GNSO", and collectively with the ASO and ccNSO, the "Supporting Organizations"), which shall be responsible for developing and recommending to the Board substantive policies relating to generic top-level domains and other responsibilities of the GNSO as set forth in these Bylaws.
- The GNSO shall consist of:
 - (a) A number of Constituencies, where applicable, organized within the Stakeholder Groups
 - (b) Four Stakeholder Groups organized within Houses
 - (c) Two Houses within the GNSO Council
 - (d) A GNSO Council responsible for managing the policy development process of the GNSO
- The GNSO Council shall consist of:
 - (i) three representatives selected from the Registries Stakeholder Group
 - (ii) three representatives selected from the Registrars Stakeholder Group;
 - (iii) six representatives selected from the Commercial Stakeholder Group;
 - (iii) six representatives selected from the Non-Commercial Stakeholder Group; and
 - (iv) three representatives selected by the ICANN Nominating Committee, one of which shall be non-voting, but otherwise entitled to participate on equal footing with other members of the GNSO Council including, e.g. the making and seconding of motions and of serving as Chair if elected. One Nominating Committee appointee voting representative shall be assigned to each House by the Nominating Committee.
- The GNSO Council is responsible for managing the policy development process of the GNSO. It shall adopt such procedures (the "GNSO Operating Procedures") as it sees fit to carry out that responsibility, provided that such procedures are approved by a majority vote of each House.

- The GNSO is a member of the Empowered Community (EC). What are the GNSO's responsibilities and powers within this structure? The EC has nine powers to ensure that ICANN Board and organization are held accountable:
 - Reject Standard Bylaw Amendments
 - Reject ICANN Budgets, IANA Budgets, Operating Plans and Strategic Plans
 - The right of inspection and investigation
 - Initiate a Community Reconsideration Request, mediation or a Community Independent Review Process
 - Reject Public Technical Identifiers (PTI) Governance Actions
 - Approve Fundamental Amendments, Articles Amendments and Asset Sales
 - Recall the entire ICANN Board
 - Appoint and remove individual ICANN Board directors (other than the President)
 - Require the ICANN Board to re-review its rejection of recommendations from reviews relating to PTI
- The EC has a process to raise concerns with an action or inaction made by the ICANN Board or organization. These seven steps are expected to be taken incrementally, with a pause between each to try and prevent moving to the next step in the escalation process. The seven steps are:
 - A petition is initiated in a SO or AC
 - The petition is accepted by the SO or AC
 - The petition is supported by other SOs or ACs participating in the EC
 - A conference call is held with the ICANN Board to discuss the petition
 - A community forum is held with the ICANN Board to discuss the petition
 - The EC establishes if it wishes to use a community power
 - The EC advises the ICANN Board of its decision.
- How does the EC use their powers? Key element are the hands - intention is not to move forward, but try to resolve before it gets to the next step.
- Is there is a GNSO specific element in step 1 (A petition is initiated in a SO or AC) - for instance, would it need Stakeholder Group/Constituency buy-in?
- Several changes were needed in the GNSO Operating Procedures, which were approved in January 2018. These include:
 - In many cases, no changes were in fact needed because sufficient guidance is provided or has been addressed otherwise (e.g., SSC)
 - Changes to ICANN Bylaws to reflect new voting thresholds
 - Changes to GOP to reflect that certain decisions are accepted "automatically" through consent agenda
 - Waiver for current timing requirements in specific circumstances to meet DP obligations
 - Clarification that certain petitions submitted by an individual need to go via SG/C
 - Clarification that all petitions by an individual for Board Director removal need to be submitted directly to the GNSO Council
- There is no requirement for the GNSO Chair to assume the GNSO Representative role on the Empowered Community Administration ("EC Admin") on behalf of the GNSO, but it has made sense to recent Council Leadership Teams. The current selection process for the GNSO Representative to the EC Admin can be found here:

<https://gns0.icann.org/sites/default/files/file/field-file-attach/process-criteria-gns0-representative-empowered-community-administration-28jun17-en.pdf>.

- Auto triggers to meet: ICANN budget, timelines are very short. What are the ramifications of not adopting budget? There is a caretaker budget.
- Additional changes are still in progress:
 - Article 4 (Accountability and Review): 4.3 Independent Review Process (IRP) for covered ICANN actions - initiating an IRP, representation and payment, and decision to make the claim for Council consideration
 - Customer Standing Committee (CSC): Section 17.2 CSC composition, appointment, term and removal; and section 17.3 CSC Charter periodic review - process and timeline
 - Section 18.12 Special IANA Naming Function Reviews (IFRs) -- proposed process for revising the procedures and outcomes and a consultation process developed with the ccNSO on whether to initiate the IFR
 - Participation in community forums: Section 1.3 approval action community forum and section 2.3 rejection action community forum – proposed process for input
 - Section 2.2 petition process for specified actions – rules for submitting petitions and identify representative
 - Recall / removal processes: Section 3.1 Nominating Committee Director removal process and section 3.3 Board recall process -- representation, participation, and communication
- Suggestion to go through examples/scenarios of how to utilize the EC powers at an ICANN meeting, though there are concerns about disclosing worst case issues. However, need to clarify timing and who can utilize the powers.
- Need to accept that one cannot identify all issues, need to be ready for the unknown unknowns.
- Can Council go beyond Article 11? What type of issues? What types of challenges? What are the sources of challenges? Who/what might try to bypass the GNSO?
 - There is contention between pushing the GNSO outside of the “picket fence” while also keeping the GNSO in a box.
- Examples of potential issues for the EC Admin to escalate: Disproportionate influence on the board. Processes are circumvented (e.g., EPDP goes too slow, negotiate between ICANN/Board). The ECA representative is not doing an adequate job.
- Is there a need for an emergency consultation mechanism? How can the parties convene and collect input? This issue could be pulled into any testing exercises that might be undertaken.
- EC powers are intended to be a deterrent but should make sure they work. Could go back to a time when there was no EC - find old cases.
- ECA rep should alert Council if something if problematic is coming down the pipeline.

Agreements:

- Article 11 outlines the unique mission of the GNSO: the GNSO is responsible for developing and recommending to the Board substantive policies relating to generic Top-Level Domains.
- The Council takes responsibility for making sure that the remaining work to incorporate the changes from the EC into the ICANN Bylaws and GNSO Operating Procedures, gets completed.

- The Council agrees that it should better understand how the EC powers are utilized and that it should not learn on the go when something arises.

Action items Day 1:

- *Council to seek to map out timing elements for utilizing the nine powers held by the EC. Consider if and how an emergency community consultation mechanism can be integrated.*
- *Council to go through examples/scenarios to see how the EC powers can be utilized. This should include going down into the SG/C level of detail.*

D. Role and responsibilities of Council leadership

Objectives:

- Develop a common understanding by all of the role and responsibilities of the GNSO Council leadership, appreciating how this has evolved over time.
- Develop a common understanding of and build trust in the GNSO Council's bicameral structure.
- Identify what the leadership team does/does not do and dispel any possible misconceptions.
- Develop an appreciation for the role that staff play in assisting leadership's work.
- Workshop possible problem areas with the leadership team, consider how these may be identified and resolved.

High level notes:

- From the ICANN Bylaws Article 11: "The GNSO Council shall select the GNSO Chair for a term the GNSO Council specifies, but not longer than one year. Each House (as described in Section 11.3(h)) shall select a Vice-Chair, who will be a Vice-Chair of the whole of the GNSO Council, for a term the GNSO Council specifies, but not longer than one year. The procedures for selecting the Chair and any other officers are contained in the GNSO Operating Procedures. In the event that the GNSO Council has not elected a GNSO Chair by the end of the previous Chair's term, the Vice-Chairs will serve as Interim GNSO Co-Chairs until a successful election can be held".
 - There are some specific responsibilities for the GNSO Chair and Vice-Chairs, including developing the minutes of meetings, managing speaking at meetings, and preparing a 12-month schedule of Council meetings after the Annual General Meeting.
 - However, there is quite a lot more that gets done that is not captured in the GNSO Operating Procedures, such as preparatory meetings that take place, new obligations as a result of the post-transition Bylaws and developing and carrying out ICANN meeting strategy.
 - Role of GNSO Chair has changed over time, with more responsibilities delegated to Council Vice-Chairs as a result of the increased workload (e.g., after the EC was established). Regular communication within the leadership team is key.
 - Is there a need to institutionalize and document some of the division of labor between GNSO Chair and Council Vice-Chairs? In many circumstances, the Chair assumes the leadership role.
 - However, what is the role of the GNSO Chair in relation to the broader GNSO community?
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- Speaking at Meetings section - is it necessary? Origins come from more formal settings (e.g., governments). Is the fact that this rule is not strictly followed problematic?
- Leadership team composition - run as a team is sort of an evolution of the roles. Current vice-chairs see themselves in a supportive role, serve as a sanity check, reduce workload on Chair. Important since the workload is now larger than previously.
- How can continuity, consistent practices be preserved from leadership team to team?
- When can Operating Procedures be reviewed? Any time, but changes require 21-day public comment and Board oversight. However, usually comes out of some catalyst (e.g., GNSO Review). Need to differentiate between procedures versus best practices.
- The one-year term is quite short and there is no chair-elect. Makes it difficult to plan strategically when leadership is uncertain. Leadership term length needs to be compatible with Councilor term length. Need to make sure that any changes to GNSO Operating Procedures do not contravene Bylaws.
- All Councilors should be engaged, not just the responsibility of leadership. Is it important to share more what the leadership does in the background? Would some of that background then activate the mailing list? Why is the mailing list traffic less than previously? However, some do not want to see what takes place in the background.
- With lack of email engagement, this makes the engagement on Council meetings more substantial. Not sure why mailing list usage has waned.
- Consideration for moving communications to Slack (or other software?). Should the Council evolve?
- Nominating Committee appointees (NCA) do not always get information, even when the NCA is on behalf of Contracted Party House (CPH) and Non-Contracted Party House (NCPH).
- Consider documenting the internal operating procedures of the leadership team?
- How does the Council prioritize amongst its responsibilities? Develop heatmaps?

Action items Day 1:

- For the section 3.6 Speaking at Meetings of the GNSO Operating Procedures, *Council* to consider revising this section since it is not strictly enforced.
- *Council leadership and staff* to consider documenting the internal operating procedures of the leadership team. Create a Chair/Vice-chair handbook, to help understand role and responsibilities.
- *Council leadership* to make the Council meeting planning document public, to both help Councilors stay informed about upcoming topics, but to seek their input for meeting preparation.
- *Staff* to investigate if the GNSO can serve as a Slack guinea pig in the already existing pilot effort within ICANN org. Drafting could take place in Slack, but final drafts would still need to be circulated on email to ensure that it gets incorporated into the public record.
- *Council leadership* to liaise with the Nominating Committee to understand from Appointees and Panelists, what works, what does not within the process, and better understand how the selection process takes place. *Councilors* to investigate how NCAs can be better informed; identify what communications they might not be receiving.

E. Role and responsibilities of GNSO more broadly

Objectives:

- With the morning session's history of GNSO and ICANN as a foundation for this discussion, compare historic and current perspectives on the role of the GNSO within ICANN as a unifying topic to bring the day's discussion together.
- Recognition of common collective and individual responsibility of Councilors and Council to maintain the integrity of the PDP and exclusive role of the GNSO within ICANN.
- Develop ideas for improving/optimizing the validity and legitimacy of the PDP vis-à-vis GAC, ccNSO, ALAC, CCWGs, etc. Develop ideas for building and maintaining confidence amongst the broader Community that GNSO is the organization to address issues within the picket fence.
- Develop appreciation for councilors' role as stewards/officers of the Bylaws and org structure (i.e., appreciate personal responsibility).

High level notes:

- Based on Bylaws review, there is recognition of the GNSO's role. However, Councilors have more access to information than the rest of the community, including their SG/Cs. How do we narrow the gap?
- Validity and legitimacy of PDP is a concern, where other SO/ACs are allowed an equal voice. Does this minimize the role of the GNSO?
 - EPDP has more structure, makes it look more like a CCWG.
 - Origins - the goal has been to seek early engagement of SO/ACs earlier in the process.
- Council remit appears far wider than for an individual SG/C and their respective Councilors. It might make sense to have regular updates to the SG/Cs on a regular cadence.
- If the GACs interests are not fully addressed in a PDP, could it resort to legislation instead? The GAC represents sovereign nations - there is nothing within ICANN structures preventing them from establishing legislation.
- There seems to be a lack of focus in PDPs. Is it helpful to remind members of the scope contained within the Charter? Is it reasonable to constrain conversations in any way? How can expectations be set more clearly?
- Chartering needs to be reevaluated. Needs to establish scope, operating structure, anticipated deliverables, provide guidance to potential issues.
- How does Council keep PDP leadership accountable /set them up for success? How does Council manage (w/o micromanaging)?
- Important to understand the GAC's advisory role. What does participation in a PDP by the GAC mean? It is better of course to understand the GAC consensus position earlier in the process, but the GAC members of PDP WGs are not always participating on behalf of the GAC.
- However, should not fixate on issues with just the GAC since there are other stakeholder groups in the community. Does the GAC get more attention because of the way that Advice is considered by Board? Should consider GNSO's role in the context of ICANN's governance model. Take into consideration in context of other SO/ACs as well.

Action Items Day 1:

- *Staff*, in consultation with Council leadership, to continue to develop educational information about the role of the Council (e.g., Becky's presentation on the "picket fence" should be part of ICANN learn).

- *Council* to consider some mechanism to provide regular updates to SG/Cs since the Council topics can be of a further reaching nature than might normally be discussed in the SG/C.

F. Wrap up and Summary of Action Items

Action items Day 1 (compilation):

- *Council leadership* team to send “thank you” note to Becky Burr for her presentation and James Bladel for his facilitation assistance.
- *Council* to seek to map out timing elements for utilizing the nine powers held by the EC. Consider if and how an emergency community consultation mechanism can be integrated.
- *Council* to go through examples/scenarios to see how the EC powers can be utilized. This should include going down into the SG/C level of detail.
- For the section 3.6 Speaking at Meetings of the GNSO Operating Procedures, *Council* to consider revising this section since it is not strictly enforced.
- *Council leadership and staff* to consider documenting the internal operating procedures of the leadership team. Create a Chair/Vice-chair handbook, to help understand role and responsibilities.
- *Council leadership* to make the Council meeting planning document public, to both help Councilors stay informed about upcoming topics, but to seek their input for meeting preparation.
- *Staff* to investigate if the GNSO can serve as a Slack guinea pig in the already existing pilot effort within ICANN org. Drafting could take place in Slack, but final drafts would still need to be circulated on email to ensure that it gets incorporated into the public record.
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- *Staff*, in consultation with Council leadership, to continue to develop educational information about the role of the Council (e.g., Becky’s presentation on the “picket fence” should be part of ICANN learn).
- *Council* to consider some mechanism to provide regular updates to SG/Cs since the Council topics can be of a further reaching nature than might normally be discussed in the SG/C.

Day Two

A. Focus for day two

PDP 3.0

The overarching goal of the second day of the meeting was to better understand three specific improvements identified in PDP 3.0, brainstorm on potential implementation elements, and agree on concrete action items to progress the implementation.

B. PDP 3.0 Implementation / Overview

Objectives:

- Establish a mutual understanding of three of the improvements from PDP 3.0 (#2, #5, and #13).

High level notes:

- The genesis for PDP 3.0 was the 2018 GNSO Council Strategic Planning Session. Council leadership and staff developed a discussion paper (see <https://gns0.icann.org/en/drafts/pdp-discussion-paper-11may18-en.pdf>) distributed on 12 May 2018 that aims to synthesize challenges as well as possible improvements related to the Policy Development Process (PDP). The paper incorporates discussions over many months, including the Council Strategic Planning Session (January 2018) and a Community session at ICANN61 (March 2018).
- The discussion paper identifies a number of immediate and long-term possible improvements that the Council and PDP Working Groups could consider implementing to enhance efficiency and effectiveness of GNSO policy development activities.
- The Council adopted a number of proposed improvements for implementation during its meeting at ICANN63 (Oct 2018)
- Staff shared proposed an implementation plan for Council review in Dec 2018 (see: <https://gns0.icann.org/sites/default/files/file/field-file-attach/pdp-implementation-plan-10dec18-en.pdf>).
- The Council decided to focus on three recommendations where further guidance is needed before additional implementation work can be done.
- Improvement #2 - Alternatives to open WG model
 - Description: The PDP Manual provides the flexibility to consider different types of PDP Team structures, for example, reference is made to working group, task force, committee of the whole or drafting team. To ensure representation as well as empowerment of WG members, different team structures should be considered, for example, having members designated by SO/AC/SG/Cs while individuals can join as participants or observers. This model has worked efficiently in recent Cross-Community Working Groups. At the same time, there may not be a one-size fits all model, so different alternatives should be explored so that the best fit approach for each PDP can be utilized.

- Objective: Identify and document the basic characteristics of various model(s) (including current open model, EPDP Team Composition, Review Teams) that balance representation, inclusivity, expertise, empowerment, accountability and participation.
 - Focus: Current and future WGs.
 - Possible Implementation Steps: Council to identify and consider the various model options documented when commencing new PDP to determine which best fits a particular PDP effort.
- Improvement #2 – Proposed Implementation Steps
 - Staff prepared overview of models used to date (see SPS preparatory materials)
 - Council to review overview of different models and brainstorm whether other model options should be added to the list.
 - Council to consider criteria that could be used to determine which option to apply when a new PDP is kicked off.
 - Council to consider whether the structure of any existing PDP would need to be reconsidered.
 - Council to identify and consider the various model options documented when commencing a new PDP to determine which best fits a particular PDP effort.
- Improvement #5 – Active role for Council liaisons
 - Description: Ensure that there is a clear understanding with regards to the role of the Council liaison and how he/she can assist the WG leadership. This may require PDP WG leadership teams to actively involve the liaison in leadership / preparatory meetings.
 - Objective: Ensure optimal use of GNSO Council liaisons to PDP WGs
 - Focus: Current and future WGs.
 - Possible Implementation Steps: Develop clear role description (COMPLETED – see <https://gns0.icann.org/en/council/gns0-liaison-wg-22feb18-en.pdf>).
- Develop a briefing document for new Council liaisons including the role description and highlighting relevant provisions of GNSO Procedures on the role and responsibilities of the liaison.
- Develop supporting documentation that describes when, how (including frequency) the liaison should engage in the PDP process. This may include highlighting the level of engagement for particular milestones in the PDP timeline. Support staff to include liaison in scheduling PDP WG leadership team meetings.
- Improvement #5 – Proposed Implementation Steps
 - Role description adopted during previous Council SPS (see SPS preparatory materials)
 - Staff developed a briefing document for new Council liaisons including the role description and highlighting relevant provisions of GNSO Procedures (see SPS preparatory materials)
 - Council to discuss whether role description is fit for purpose in light of concerns around Chair neutrality and multi-phase PDP structures
- Improvement #13 – Review of WG Leadership
 - Description: Despite running possibly for multiple years, there is currently no system in place that allows for the regular review of the functioning of PDP WG leadership teams. The Council could run an anonymous survey amongst the PDP WG to obtain feedback on the WG Chair(s) on a regular basis to facilitate its role

- as a manager of the PDP. Similarly, there is no process in place that allows a WG to challenge and/or replace its leadership team.
- Objective: Allow for regular review of PDP leadership team to be able to identify early on potential issues
 - Focus: Current and future PDP WGs
 - Possible Implementation Steps: Commence a practice of appointing WG leadership for a 12 month period, and require reconfirmation by the WG to continue for subsequent 12 month period/s.
- Improvement #13 – Proposed Implementation Steps
 - Commence a practice of appointing WG leadership for a 12 month period, and require reconfirmation by the WG to continue for subsequent 12 month period/s
 - Staff developed briefing document on existing WG Self-Assessment to determine if/how this could be leveraged to assist with WG leadership review (see SPS preparatory materials)
 - Council to discuss how review as well as reconfirmation is expected to be carried out in practice
 - Review GNSO Operating Procedures and determine what changes, if any, need to be made to implement this practice
 - Council leadership picked these 3 recommendations because they warrant further discussion.
 - Seeking to have concrete agreement and action items out of SPS. Council agrees that the goal is not to relitigate recommendations, but to come up with implementation steps.

C. PDP 3.0 - General Discussion on three Improvements (#2, #5, & #13)

Objectives:

- Get general feedback and input on three of the improvements (#2, #5, and #13) in advance of the breakout sessions.

High level notes:

- Improvement #2 - Alternatives to open WG model
- The paper shared with Council seeks to compile list of models used in the past, which are allowed by the flexibility in the Ops Procedures.
- After a drafting team is formed and is developing a charter, the team could determine from a list, which model would make the most sense (e.g., open Working Group model, Cross-Community Working Group model, GNSO Review Working Group model (e.g., one primary, one back-up representative), Standing Selection Committee model, EPDP Team model, committee of the whole).
- Helpful to identify pros/cons, help drafting teams / Council determine which are most appropriate for a given project.
- Standing Selection Committee model - brief and debrief for executive committees. Decision-making takes time but excoms are better integrated into the process, better informed.

- For whatever model, qualifications and skills needed for members. Some concerns about relying on the SG/Cs to nominate, since the members may not have those qualifications. Should there be an application/qualification process? Need to balance representation, skills, etc. However, concerns about how qualifications are validated and by who.
- Qualifications/skill-set are different for each group. Those qualifications/skill-set are also applicable to the leadership. For representative models, perhaps less critical, where appointing orgs will want qualified participants to serve on their behalf.
- In RPMs PDP, EPDP, the idea of “homework” was established to help ensure WG members come to meetings prepared. Statement of commitment is a concept that came from PDP 3.0. The work process has helped keep the WG more focused. In RPMs, identified where the data applies, rather than trying to answer the questions.
- Upskilling members could be alternative or supplemental, rather than expecting members to be fully “qualified”.
- Comparison table for different models could make sense, with several factors captured: membership eligibility, operating procedures, decision-making, communicating decision-making, urgency/timing (e.g., prioritization). Could leverage use cases to help populate grid and development of criteria.
- Expertise is relative (e.g., there are different facets of expertise, elements of the UDRP are different for a registrar compared to an Intellectual Property lawyer). Need to ensure that collectively, skill-set needs are met.
- Having non-GNSO participants can delay everything (reflect poorly for GNSO), some communities get two bites at the apple. Delays are ultimately cost implications.
- Could the SSC’s remit be expanded to handle seating small teams?
- Improvement #5 - Council liaison to PDP WGs
- Does the liaison have any responsibility in evaluating the WG leadership?
- If the WG leadership is not properly engaging with the liaison, how can that be improved? (related to the #13 as well).
- What may be missing - interdependence between WGs. Is that something that the liaison should be responsible for in some facet?
- Should the liaison serve as an escalation point for WG leadership issues identified by members?
- Improvement #13 - Review of WG Leadership
- Trend towards leadership teams, rather than a single Chair plus a vice-chair. Primarily, larger leadership is partially a result of increased workload, but also to try to reflect the composition of the community. This seems to call into question the ability of the leadership to remain neutral. Is more guidance and details needed around the consensus process, which is potentially a root issue?
- Leadership is based on volunteering, so there is not really a process/dialogue to ensure that the volunteer is qualified to lead. Co-chair model makes it more difficult to move things forward from a practical perspective.
- Could the Council actually appoint leadership?
- Assessment of the Chair should be done by the members, but design of the survey is important. Robust, transparent process is needed.
- The presence of Co-chair(s)/vice-chair(s) are valuable in that they can help with sanity checks (in addition to serving as a backup when needed).

Action items Day 2:

- *Staff* to prepare a comparison table for the proposed Working Group models, which could include several factors: membership eligibility, operating procedures, decision-making, communicating decision-making, urgency/timing (e.g., prioritization). Consider creating pros/cons as well.

D. PDP 3.0 - Breakout Session (3 sub-groups, one for #2, one for #5, and one for #13)

Objectives:

- In small teams, engage in dialogue to advance implementation next steps for improvements (#2, #5, and #13).

High level notes:

- Notes / Outcomes provided in next section.

E. PDP 3.0 - Sub-group presentation and wrap-up

Objectives:

- Understand discussions in each breakout group and agree to next steps for implementation.

High level notes:

Improvement #2 - Alternatives to open WG model

Questions to be addressed:

1. What models, if any, are missing from the list staff developed?
2. Is it possible to identify pros/cons for each model that could help inform when a model is best suited for purpose?
3. What criteria should the Council factor in when considering which model is best suit for purpose?
4. At what point should a change of model be considered for ongoing efforts?

Small team members: Rubens, Maxim, Ayden, Martin, Matthew, Marie, Julf, James (roaming), Rafik (Lead), Marika (staff support)

- Need to pick a particular model for a particular task. Consider if it is a spectrum of options, from open to closed. Should not restrain GNSO to only use one model.
- Need to be clear on the results to be achieved - start there and then determine which model fits best.
- Committee of the whole is where GNSO Council started, evolved into Task Force (TF) and then Working Group (WG) model.
- Possible alternative: EPDP Team model without other SO/AC participation

- Got more work done under the task force model, WG model is more inclusive but worse at making decisions. Tried to fix issues in the TF model with WG model, for which other issues have identified.
- There are concerns about the legitimacy of existing WGs being impacted by imbalanced representation, though others believe that asymmetry of stakeholders does not make it illegitimate. Need to make sure that all GNSO groups have an opportunity to weigh in.
- Develop WG model overview with pros/cons.
- Emergency situations may create new models but need to be careful that it then becomes the automatic default.
- Important to remember that the PDP Manual provides the GNSO Council with the flexibility to pick the right model - it currently refers to a 'team' that is to be defined by the GNSO Council. For any other models it does require the guidance from the Council for how the group is expected to operate, as only for working groups there are specific guidelines in place. Should at some point the Council settled on 'preferred' models, it could consider developing additional guidelines.
- Council does have the ability to modify the charter of a PDP Team, should it determine that this is necessary, but this is seen as a nuclear option. It could be considered for PDPs that have separate phases?
- Consider whether certain parts could be further broken down - e.g. one part covering composition, one part covering decision making, and then you are able to mix and match.

Possible Criteria to apply:

- Inclusiveness,
- Openness,
- Efficiency
- Effectiveness
- Timeliness

Could consider these criteria and determine which are most important to make a determination of which is best suit for purpose. In addition, additional enhancements could be considered if certain criteria is less 'strong' in a certain model.

Review of existing models:

Option 1 - Open WG model - anyone can participate as an individual, not representative. Not acting on behalf of anyone. Inclusive of what? Could result in unbalanced representation which is not inclusive. Could this be a training ground for those that want to get actively involved? Need to find a way to get fresh blood in.

Pro: everyone can be involved

Con: everyone can be involved

Use it for when it is a rolling discussion on a certain discussion, no specific timeline or urgency. No pressing issues.

Option 2 - CCWG Model

Applied to GNSO model - focused on SG/C appointments. Could include other groups as well. Members are expected to represent their appointing organization, but it is up to the appointing organization to put specific rules in place. Open to other SO/ACs but care in member appointments. Groups do not always elect to appoint members.

Cons: no limitation on participation, despite membership appointment. May not be timely. Is there faster or expeditious decision making in this model?

Consider giving more weight to member input earlier in the input, not only at the end of the process?

Option 3 - GNSO Review WG Model

Double check whether it was only participants from GNSO groups

Need to look at the composition - are certain groups overrepresented? Still operated on consensus basis so it is not just about counting heads.

Option 4 - Standing Selection Committee Model

Limited representation. Balanced so it is not possible for one group to dominate another.

Need to consult back with relevant groups. Many meetings, more control, more information. May not be applicable for PDP? Good for specific choices between options.

Could work if you have something limited in time and scope.

Option 5 - EPDP Team Model

Participation of SO/ACs during the EPDP phase could mean that some get a second chance on the topic, since their participation does not preclude them from providing Advice to the ICANN Board.

No participation from non-members - is that a pro or a con? In this case pro.

Is this only desire where there is a short timeline?

Option 6 - Committee of the whole

Council is the manager of the process, shouldn't be doing the actual policy development.

Improvement #5 – Active role for Council liaisons

Questions to addressed:

1. Is the role description still fit for purpose in light of concerns around Chair neutrality and multi-phase (E)PDP structures?
2. What other guidance / support should be provided to liaisons?
3. Note recent improvements to:
 - a. Set up dialogue between outgoing and incoming liaisons
 - b. Develop supporting documentation that describes when, how (including frequency) the liaison should engage in the PDP process. This may include highlighting the level of engagement for particular milestones in the PDP timeline.
 - c. Support staff to include liaison in scheduling PDP WG leadership team meetings.
 - d. Involvement of liaisons in (E)PDP leadership team meetings

- The group reviewed the onboarding / handover document staff prepared here:
https://docs.google.com/document/d/1wiGR54WFPIFkrvCZus3fRvKVvBuir2Y_1AEYN6n

[GRmo/edit](#). While they believed it to be useful, they did not feel that it provided the practical understanding of what liaison needs to do in their role.

- As such, the group spent its time developing a matrix to list the responsibilities of the liaisons and to then determine at what phase the liaison is needed, how often the liaison might be needed for that action, and best practices (e.g., what to do, what form it should take, etc.).
- This working document matrix can be found here:
<https://docs.google.com/spreadsheets/d/10kPxrMTUlvNfjK0IISa-PUkiBsS-P7EMznVYHajzjoA/edit?ts=5c4a19c9#gid=0>.
- This matrix is seen to supplement the liaison description found here:
<https://gns0.icann.org/sites/default/files/file/field-file-attach/gns0-liaison-wg-22feb18-en.pdf>
- Questions about what expectations on reporting are for liaisons? Suggested that a written update on list on a regular basis may make sense, along with taking questions on Council meetings.
- Providing a reminder of liaison role is important for WGs
- How is WG leadership reporting managed versus liaison reporting? Template driven reporting could help minimize the problem.

Improvement #13 – Review of WG Leadership

Questions to addressed:

1. Can/should WG Self-Assessment be leveraged to assist with WG leadership review?
 2. Who and how should WG Leadership be reviewed and how does that align with annual reconfirmation?
 3. What happens if leadership is not confirmed?
 4. What changes, if any, may need to be made to the GNSO Operating Procedures to implement review of WG leadership?
- Considered Expectations, Engagement, Review/Accountability
 - a. How do we establish appropriate expectations and eligibility and appointment processes for Chairs?
 - b. Need to provide written/detailed update well in advance of ICANN f2F meetings.
 - c. Council needs to read all updates and be prepared to ask targeted/substantive questions.
 - d. PDP Chair needs to provide a quick run-through of key points, not the history, highlighting potential problem areas
 - e. In a closed WG, the Chair and VC should be appointed, not expected to come from the limited membership.
 - f. Possibility of developing a pool of trained Chairs and/or facilitators, coaches to assist?
 - g. General sense that surveys of WG members in assessment of leadership is not helpful, can be abused.
 - h. Need a reporting mechanism, obligations on Leadership to report problems in order to inform council.

- i. Need time limitations on PDPs from the scoping effort, discussion around leadership team term (limits?) and consideration of continuation or replacement of Chair?
- j. Need to tie charter, scope, timeframe and budget together, and PDP Leadership needs to be held accountable to all components (on reporting to Council at a minimum).
- k. Council needs to establish touch-points with SG/C (and possibly SO/AC) Chairs to confirm that WG member participants are representing the views of the group and not personal views.
- l. PDP Chair and Liaison have obligation to bring issues to attention of the Council in a timely manner, and the GNSO Council Chair will contact SG/C Chair as needed.
- m. Need to establish reasonable thresholds for where a Liaison or PDP Chair raises an issue to Council. Needs to be negatively impacting scope, budget, timelines, charter, not only be a substantive disagreement (which is to be expected during any PDP).
- n. Need to avoid appearance or reality of shifting responsibility from PDP Chair to Liaison.

Action items Day 2:

- *Small group of Councilors* to continue work of the sub-groups to make specific PDP 3.0 implementation recommendations. Council to agree to working methods.

F. Role and responsibilities of Council Liaisons

Objectives:

- Develop a common understanding of the role and responsibilities of GNSO Council liaisons (including PDP, Review Teams and GAC).
- Identify all current liaison positions and their current appointees.

High level notes:

- Received impressions from each of the liaisons currently assigned to each of the PDPs and IRTs, as well as the liaisons to the ccNSO and GAC. Some impressions included:
 - Easy for PDP WG leadership / Council to forget that there is a liaison who should be involved in certain discussions.
 - Lack of clarity around the requirement for regular updates by liaisons to the GNSO Council.
 - Clearer guidelines needed for participation and interaction with WG Leadership.
 - Important to see clearer lines for dependencies between different PDP efforts.
 - Desire to see a more structured checklist of things that the liaison must do, though it should remain flexible, for instance in how precisely things are done.
 - Level of effort underestimated for EPDP. Frequency of updates is substantially higher than most any other PDP. Additional challenge in serving as vice-chair. However, not being a member is helpful in serving as a liaison, since the liaison is intended to be neutral.
 - Effort for non-PDP efforts substantially lower.

- Liaisons for IRTs serve in a different way. IRTs are staff led, no community leadership team to coordinate with. If the liaison is a member of the IRT, might need to take a step back so as not to confuse the situation / roles.
- If there is a situation in an IRT, how is it escalated? Escalated to the Council leadership and staff in the past.
- There is much less guidance for IRT liaisons. However, there is a consensus call process to escalate something to the Council. Is this the right threshold?
- IRTs can be problematic to manage - can allow for same issues being re-litigated.
- Within an IRT, there is no appointed chair which allows for consultation with the liaison like in a WG;
- Liaison to the ccNSO - join Council calls and provides information /receives information. Could explore coordination on budget specifically.
- Liaison to the GAC - primary goal is to assist in early engagement. Evolving role - participate in as many meetings as possible and to educate the GAC on GNSO processes and current efforts.
- Role description is mostly fine as it is fairly flexible. However, there is additional guidance that could be helpful (e.g., improvements suggested in relation to PDP 3.0 #5)
- For the content, format, frequency of reporting, is it clear where the role and responsibilities of the WG Chairs and liaisons intersect?
- Is reporting from the liaison and the WG Chairs the same? It seems that regular reporting should be a job of the WG leadership (and the liaison could offer a different perspective).
- What are the origins of the liaison? Comes from the transition from the old style of PDP of the whole to the open WG membership model. The liaison was to maintain that linkage and ensure the manager had a conduit into the WG.
- More guidance may be needed for resolving disputes, even if not all issues are uniform. That guidance could come from Council leadership.
- 3.7 appeals seemed like an edge case, but has now manifested in reality. Does the liaison have adequate guidance, skill-set to mediate? Is a third-party mediator needed for instance?
- Only way multistakeholder model works is if there is an agreement to operate in good faith. If there are threats of lawsuits, this is a threat to the model. Maybe terms of participation need to be updated. How do we get agreement from participants to act in a civil manner. How binding would a terms of agreement be? Need a mechanism to oust a problematic / disruptive member. Need a sanction process and should be external to the WG (e.g., allow the work of the WG to continue).
- In circumstances, if the role of the liaison is part of the escalation process, could be dangerous for the liaison.
- Registrants agree in regards to UDRP, so it would not be unheard of to ask WG participants to submit to terms of participation.
- Can the SOIs be made binding? They are updated on an honor system, no one is regularly ensuring that they are accurate.
- Need to reiterate at the start of WG calls the role and responsibilities of the liaison. WG members should be reminded of the role of the liaison and ensure they know who they are.

Action items Day 2:

- *Council* to consider whether Consensus Policy Implementation Framework (CPIF) needs to be reevaluated as it relates to guidance for Council liaisons to IRTs, avoiding re-litigation of policy issues, and escalation of issues (noting that the Policy & Implementation recommendations adopted in 2015 state that the recommendations, including the CPIF, should be evaluated after at most 5 years).
- *Council* to consider options for enhancing the WG participation model, including terms for participation that members must agree to.

G. Wrap up and close of session

Action items Day 2 (compilation):

- *Staff* to prepare a comparison table for the proposed Working Group models, which could include several factors: membership eligibility, operating procedures, decision-making, communicating decision-making, urgency/timing (e.g., prioritization). Consider creating pros/cons as well.
- *Small group of Councilors* to continue work of the sub-groups to make specific PDP 3.0 implementation recommendations. Council to agree to working methods.
- *Council* to consider whether Consensus Policy Implementation Framework (CPIF) needs to be reevaluated as it relates to guidance for Council liaisons to IRTs, avoiding re-litigation of policy issues, and escalation of issues (noting that the Policy & Implementation recommendations adopted in 2015 state that the recommendations, including the CPIF, should be evaluated after at most 5 years).
- *Council* to consider options for enhancing the WG participation model, including terms for participation that members must agree to.

Day Three

A. Focus for Day Three

2019 Strategic planning:

What is the GNSO's workload this year, what milestones will arise, and how can we improve effectiveness in meeting those milestones?

B. How to manage Council's 2019 workload: strategies to increase effectiveness

Objectives:

- Understanding the resource needs and allocation (e.g., Council, Community, staff)
- Identify 2019 workload (see Annex B – 2019 Project Timing Planning) and how that fits with the resource allocation
- Identify areas of improvement in managing the workload
- Identify how Councilors can improve preparation and engagement

High level notes:

- How to accommodate for items that may not get done / addressed as a result of the workload?
- Need to better understand where the pressures are, how much we can possibly achieve and get to a prioritization phase. Prioritize work of Council and GNSO community.
- *Project Timing Document was displayed and described to the Council (See bottom of page here: <https://gnsso.icann.org/en/council>)*
- Display of status - does it accurately reflect where the Council is spending its time? Note it is an evolving document. Intention is to reflect a realistic picture for expected milestones. Could consider adding additional milestones if additional steps are needed for a certain project (e.g. curative rights - additional step of deliberation / consideration)
- Color coding could be added to reflect where there is potential delay?
- Consider adding an auto-filter that will allow easier review
- Include participation in Empowered Community Administration as a standing committee activity
- Make a reference that the outcome of the specific reviews could result in additional work for the GNSO Council. Should Council review more closely when those reviews publish their initial work and the impact it could have on the Council's role?
- Standing committees are about making sure that work gets done and a structure is in place to do so. Sub-groups, small teams - make things predictable and ensure that there is accountability to deliver.
- Would be helpful to track standing action items that come back to the Council for items that are recurring.
- Transfer review - note that EPDP Team is recommending that work is undertaken urgently to address GDPR related issues.

- Note, EPDP Team may have additional recommendations that impact the Council's workload (additional work for existing PDPs or request for other types of policy work). See how this can be tracked in the document.
- Would a project management tool be helpful here - should Council be recommending a tool that would aid this work? Microsoft project management may be added soon, may also be helpful to have enhanced project management skills in the policy team.
- What is the impact of new legislations on policy work? Should that be better tracked? For example, new copyright law. See Global Legislative and Regulatory Developments Reports that ICANN publishes (<https://www.icann.org/news/announcement-2018-08-30-en>). Need to be careful about mission creep. Could the Cross Community Working Group on Internet Governance facilitate tracking items that may have an impact on ICANN and do fall within its remit? ICANN doesn't exist in a vacuum, but our role to ensure that it does not expand beyond its remit.
- How is the level of priority and level of effort assessed? Consider forming a small team to work out the definitions and ensure a common understanding.
- May also need to look outside of the Council - has ICANN dedicated sufficient resources for the implementation of recommendations coming out of the GNSO Council? Engage with PDP leadership in a timely manner to understand timelines and expected resources for implementation.
- Is the Council taking on too much? How can that be better assessed? How can capacity be assessed?

Action items Day 3:

- *Erika Mann* to send note to Council upon the adoption of the new copyright law and the potential impact on GNSO policy work / DNS.
- *Council* to form a small team to work on the definitions in the Project Timing Document in relation to definitions of priority and level of effort.
- *Staff* to update Project Timing Document to try and incorporate suggestions from Councilors.

C. What does Council need/want to achieve in 2019, and how to do this?

Objectives:

- Identify shared (Council and PDPs) milestones, strategic targets, metrics, and Key Performance Indicators (KPIs)
- Consider how 16 days of f2f meeting time will be utilized to meet these shared milestones and targets (advanced planning for ICANN64, 65 and 66)

High level notes:

- PDP Joint Timelines - part of PDP 3.0 is to make sure that the timelines are accurate. PDP Leadership / liaisons should communicate updates to timeline to the Council.
- For liaisons - enhance the ability for a new person stepping in be able to catch up. Need more easily accessible history.
- Tools - better way to search through all documents available. How can a searchable archive be investigated (e.g., IETF)? The GNSO site serves as a limitation.

- Google drive was helpful resource ahead of SPS. However, concerns that Google access may be limited.
- What are the requirements for sharing documents, including pending drafts. Doesn't seem to be a specific operating procedures requirement to share everything, but expectation of groups within the community.
- However, in only sharing final documents, people may not feel like they had an opportunity to affect the outcome.
- Concerns around accuracy, currency of SOIs. Helpful to understand the motivations of participants. There are ample reminders, including on every WG call - how can participants be encouraged to keep up to date?
- Does the Council and GNSO more broadly have the tools necessary to perform its work? Can these needs be understood earlier, so they can better be planned for? Resourcing is part of project planning. Consider whether any of those needs should be in the SCBO comment to the FY20 ICANN budget.
- Concerns about legal counsel in PDPs as the output can be questioned. Also, the input can be dependent upon what is being asked. Legal expertise is generally, "it depends". Lawyers provide advice, they do not make decisions. Preferable to find legal resources who understand the ICANN environment.
- In the scoping of PDPs, need to better incorporate resourcing needs. The EPDP can provide lessons learned for procuring resources. Can also help quantify the costs/needs of PDPs (travel, technology, staff, etc.).
- Consider shifting dollars on legal advice to professional mediators. Advice is different than facilitating a process. Facilitation seem to allow more progress to be made.
- Can the SCBO develop a timeline to have consultations with PDP leadership to understand needs (e.g., mediators, legal advice, data, etc.)? Guidelines would be needed to understand how to decide / prioritize between efforts.
- What are the actual costs of a PDP, for running calls, providing resources, etc.? Better understanding costs helps the Council to make strategic decisions. Could allow Council to make prioritized decisions as well.

Action Items Day 3:

- As part of PDP 3.0, *Council* to establish PDPs Chair(s)/ liaisons communication / reporting timelines and requirements to Council.
- *Council* to consider adding request for searchable tools/archive to the Council comment to the FY20 budget.
- *Council* to consider how to better understand the specific resourcing needs of PDP WGs (e.g., SCBO to meet with PDP leadership in August of every year).

D. Lunch with the Board

Objectives:

- Update the Board on what has taken place in the previous two days of the Strategic Planning Session
- Have an open and frank discussion with the Board

High level notes:

- GNSO Chair articulated the Council's goals for the SPS to the Board. Also provided an update on what has taken place to date.
- Board's priorities, activities, and goals were published in December. Noted that activities and priorities generally stem from community (e.g., EPDP)
- 11 goals, some are about improving the skills of the Board, considering the multistakeholder model.
- Operating and financial plan is intended to support the strategic plan.
- Evolving the multistakeholder model. First concentrate on documenting the issues. Extremely early days, however, some of the suggestions to date are improving processes, consensus building, precision in chartering, change in culture. Focus on the easy wins, which are around process rather than culture or structure.
- PDP 3.0 - focus on how Council can perform better in its role as the PDP manager
- Create system/framework to handle things that come up for the unknowns (e.g., EPDP). However, clarification that the EPDP itself already existed as a tool for the GNSO. Look at the impact from the technical perspective.
- May need something that is more nimble than the EPDP however, a way to handle unknown unknowns.
- How can the meetings between the Board and Council be improved, considering that meetings are limited. Are there more opportunities for coordination? Some responsibility for Council to meet Board in the middle. Meeting informally more may be helpful. What helped was that the questions ran out, allowed for more informal discussion.
- Tracking legislation that might affect ICANN. How to engage? How to get input from community? What are the mechanisms?
- Update on legal threats to WG members? ICANN Board, Org progress? Next steps? Who makes a legal decision and when? The Board does upon adoption of the policy recommendations. Seems that members are protected by the structure.
- How about the concerns of litigation threats between individuals? Is there a way to enforce behavior or is it left to self-policing?
- Worried about bringing consensus into the GAC and developing constructive input.
- Part of the strategic plan is early warning systems. Tech backlash is excuse to develop highly impactful legislation.
- How do we scale our systems, especially a bottom up multistakeholder model, as the community increases and outreach is done?
- Appreciation for anti-harassment measures developed at the Board level.
- Security, governance, unique identifier system, geo political, financials can all be affected by ICANN Board initiatives. What are the ways to implement that? Working on requirements, user stories, etc.

Action Items Day 3:

- *Council leadership* to follow up on status of RPMs litigation threats.
- *Council leadership* to get Council input on the Board initiatives for discussion in Kobe.

E. Wrap up and close of session

- What projects will carry forward in 2019 and what new projects will come into 2019

-
- PDP 3.0 - how do we organize ourselves to carry implementation forward? Single group of around 7 members? If so, volunteers or representative?
 - Try and determine where the low-hanging fruit are in the PDP 3.0 implementation list, (e.g., informing the community of the liaison role, changing of timeline). Can implement incrementally. Can review the PDP 3.0 Implementation Plan to see proposed actions and timing here: <https://gns0.icann.org/sites/default/files/file/field-file-attach/pdp-implementation-plan-10dec18-en.pdf>
 - Establish project plan of for implementation for PDP 3.0. Volunteers: Rafik (lead), Elsa, Marie, Darcy, Pam, Arsene.
 - What tools and resources are needed to better manage projects?
 - The Council is willing to serve as a guinea pig for Slack - need to make sure IT puts that in place. Guidelines for the tool needed.
 - Email list, legal analysis, mediators, proper budgeting, staff directory for projects are all see as useful tools for the Council.
 - How do we determine capacity? How do we determine if we're at capacity?
 - If unknowns pop up, either be able to add it or de-prioritize something else to free up capacity. Could have a priority list beforehand, makes it easier to carve things off.
 - Some parking lot topics/themes below:
 - Need to be able to look ahead and get early warning for legislation.
 - Litigation between community members, threats. More broadly, general rules of engagement and ability to enforce. Need clear standards on what is actually problematic - not create a slippery slope and take away from substantive debate.
 - WGs are good at soliciting opinions, bad at making decisions.
 - There does not seem to be a "judiciary" in the ICANN community. There is an executive branch (e.g., Board) and legislative (e.g., SO/ACs).
 - The model allows a single person, not even just a single SO/AC/SG/C, to shut down work. The participation in some PDPs has become more and more contentious - is insurance to protect participants a realistic option? Does jurisdiction matter?
 - Capacity building efforts do not seem have increased capacity, so prioritization is critical.
 - How can panels/mediators be utilized in the GNSO processes to resolve issues? Not an element currently captured. Perhaps ICANN should not seat the standing panel, since they may be a party in a dispute.
 - There is no legal structure for ICANN as participants.
 - Prevention: What can be done to try and prevent the issue before it arises? Perhaps a cheaper, simpler alternative than mediating? How do you remove the identity politics/partisanship in WGs? How do you create more trust in Chairs?
 - Case study - are there effective methods to remove a problematic member? For a representative model, could approach the respective chair. However, try not to solve specific issues and make it forward looking.
 - By calling out bad behavior, it helps reinforce what terms of behavior should look like.
 - Are the rules enforceable? What happens if a chair is unwilling to take action?
 - Intention may not be to establish rules, but establish framework for success? Culture, practices of the PDP can help make it successful.
 - Going around the room, goals for 2019 from each of the participants.
 - PDP 3.0 - complete most implementation action items
 - Protect PDP members and their participation in WGs
-

- Would like to see RPMs integrate PDP 3.0 (and other elements) to try and make it a success. Would it be worth considering re-chartering phase 2 with PDP 3.0 in mind?
- Effectively manage legislation and its impact on the ICANN community/policies. Crowd-source at the Council level and below.
- GNSO to strongly adhere to its role and remit in accordance with Bylaws/Ops Procedures
- Continue to allow participation from other SO/ACs, but improve the effectiveness of that participation
- Get clarity around resources being allocated to the community
- Cut current project list in half
- Effectively resolve IGO Curative Rights Protections without crisis
- Complete New gTLD Subsequent Procedures PDP
- Better prepare for meetings, participate more
- EPDP Phase 2, chartered effectively. Effective, consistent reporting methods
- Continue to operate in a collegial manner
- Recognize the limitation of the multistakeholder model

Action items Day 3 (compilation):*Identified throughout the day:*

- *Erika Mann* to send note to Council upon the adoption of the new copyright law and the potential impact on GNSO policy work / DNS.
- *Council* to form a small team to work on the definitions in the Project Timing Document in relation to definitions of priority and level of effort.
- *Staff* to update Project Timing Document to try and incorporate suggestions from Councilors.
- As part of PDP 3.0, *Council* to establish PDPs Chair(s)/ liaisons communication / reporting timelines and requirements to Council.
- *Council* to consider adding request for searchable tools/archive to the Council comment to the FY20 budget.
- *Council* to consider how to better understand the specific resourcing needs of PDP WGs (e.g., SCBO to meet with PDP leadership in August of every year).
- *Council leadership* to follow up on status of RPMs litigation threats.
- *Council leadership* to get Council input on the Board initiatives for discussion in Kobe.

Identified during the wrap-up:

- *Staff* to identify what are low-hanging fruit in the PDP 3.0 implementation plan. Prioritize/color-code. Identify dependencies (e.g., reporting is needed prior to evaluation).
- Recurring: *Small team of Councilors / Council leadership* to report progress of PDP 3.0 at each Council meeting. Establish project plan for implementation for PDP 3.0
- In order to better prioritize work, need to know capacity of Council, community, staff. *Staff* to get existing information from Berry Cobb about average commitment and *Council* to see if that can be utilized, leveraged, and/or updated.
- *Staff* to check if ICANN legal has looked into the insurance for WG members question.

Evaluations:

Following the session, a survey was sent to the participants to critically evaluate the Strategic Planning Session. The survey had 16 respondents, all of whom positively affirmed:

- The meeting represented good value for time spent (94%);
- I would recommend this meeting to colleagues (94%);
- I would like to see this meeting continue next year (94%); and

Raw survey data can be found here: <https://www.surveymonkey.com/results/SM-XHQ7W86JV/>

Conclusions:

The following key conclusions were reached at the 2019 Strategic Planning Session:

- Nearly all found the Strategic Planning Session to be a good learning experience and of adequate length.
- Many found the sessions on the implementation of PDP 3.0 particularly beneficial, especially the breakout sessions that allowed for dedicated and focused time on specific topics. The Council looks forward to implementing the PDP 3.0 improvements during the 2019 calendar year.
- GNSO Council members have achieved a common understanding of the “picket fence” and how this impacts and regulates their work.
- The Strategic Planning Session was a timely opportunity to discuss priorities and working methods in view of the FY20 Budget, which has a public comment period closing shortly afterwards. Priorities of the Council can be integrated into the public comment.
- The GNSO Council is interested in exploring how it can more effectively manage its workload, which includes better understanding the cost of efforts (resources and capital), better defining reporting requirements, and gaining a better understanding of capacity and ensuing priorities of the GNSO.
- The topics on the GNSO’s roles and responsibilities, as well as those of the Council leadership, Councilors, and liaisons were found to be useful by most, though less so for those that are already familiar (e.g., attended the previous Strategic Planning Session).

Next steps:

The Council has begun to take up the Action Items identified throughout this report. The GNSO Council submitted an Additional Budget Request on 25 January 2019 proposing that a Strategic Planning Session similar to the session described in this report be held in early 2020. That application acknowledges the need for the program and suggests that three days accommodates the needs of the GNSO Council. Council leadership will encourage the new leadership team formed at ICANN66 to revisit this report to inform 2020 planning and a strategic planning session, should it be funded.

ANNEX A – GNSO 2019 Strategic Planning Session Agenda

Wednesday 23 January 2019

What is the GNSO Council and what is its function within ICANN? The overarching goal of the first day of the meeting was to establish a common baseline of foundational knowledge about what the GNSO Council does, as well as the roles and responsibilities of Council leadership and the GNSO more broadly.

Timing	Topic
8.00 – 8.30	Arrival at ICANN office
8.30 – 9.30	Welcome & Introductions
9.30 – 10:30	Role of the GNSO in the context of its history
10.30 – 11.00	Email Break
11.00 – 12.30	What is the GNSO Council and what does it do?
12.30 – 13.30	Lunch Break
13.30 – 14.30	Role and responsibilities of Council leadership
14.30 – 15.30	Role and responsibilities of GNSO more broadly Role and responsibilities of GNSO Council in the PDP process (“rubber-stamp” PDP WG recommendations vs ???)
15.30 – 16.00	Email break
16.00 – 16.30	Wrap up and summary of action items
16.30 – 18.00	Cocktail at ICANN office with invited staff guests
From 18.00	Free evening

Thursday 24 January 2019

PDP 3.0. The overarching goal of the second day of the meeting was to better understand three specific improvements identified in PDP 3.0, brainstorm on potential implementation elements, and agree on concrete action items to progress the implementation.

Timing	Topic
8.30 – 9.00	Arrival at ICANN office
9.00 – 9.30	PDP 3.0 Implementation - Introduction
9.30 - 10.30	PDP 3.0 – General discussion on three improvements (#2, #5, & #13)
10.30 – 11.00	Email Break
11.00 – 12.00	PDP 3.0 – breakout session (3 sub-groups, one for #2, one for #5 and one for #13, each to come back with concrete recommendations)
12.00 – 13.00	PDP 3.0 – Sub-group presentations and wrap-up

13.00 – 14.00	Lunch Break
14.00 – 16.00	GNSO Council Meeting
16:00 – 16:45	Email Break
16.45 – 18.00	Role and responsibilities of Council Liaisons
18:00	Departure from ICANN office to Council Development activity
19.00 – 22.00	Council Development Activity (departure from the ICANN office at 18.00)

Friday 25 January 2019

2019 Strategic planning. What is the GNSO's workload this year, what milestones will arise, and how can we improve effectiveness in meeting those milestones?

Timing	Topic
8.30 – 9.00	Arrival at ICANN office
9.00 – 11.00	How to manage Council's 2019 workload: strategies to increase effectiveness
11.00 – 11.15	Email Break
11:15 – 12:00	What does Council need/want to achieve in 2019, and how to do this?
12.00 – 13.30	Lunch with ICANN Board Members
13.30 – 15.00	What does Council need/want to achieve in 2019, and how to do this? (cont'd) <ul style="list-style-type: none"> • EPDP status and expected next steps
15.00 – 16.00	Wrap up and close of session
16.00 onwards	Departures

ANNEX B - 2019 Project Timing Planning